

UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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ROBERT STEVEN NICKLAY,

Plaintiff,

Case No. 1:08-cv-211

v.

Honorable Gordon J. Quist

EATON COUNTY CIRCUIT COURT,

Defendant.

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**ORDER**

This is a civil rights action brought by a state prisoner pursuant to 42 U.S.C. § 1983. Plaintiff filed his action while he was incarcerated in the Eaton County Jail. On April 7, 2008, the Court granted Plaintiff leave to proceed *in forma pauperis*. In accordance with the Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, 28 U.S.C. § 1915(b)(1) (PLRA), the Court assessed an initial partial filing fee of \$17.12 to be paid within thirty days. Plaintiff was released from jail the following day and immediately filed a new motion for leave to proceed *in forma pauperis* (docket #12) and a supporting affidavit of indigence (docket #13). Plaintiff claims that he currently is homeless and has no source of income to pay the filing fee. Plaintiff also has filed a motion for reconsideration (docket #17) of the Court's granting him leave to proceed *in forma pauperis* under the PLRA because he no longer is a prisoner.

Under the PLRA, required partial fee payments for a complaint or appeal are to be made only while a prisoner remains in prison. Upon his release, his obligation to pay fees is to be determined, like any non-prisoner, solely by whether he qualifies for *in forma pauperis* status.

*McGore v. Wigglesworth*, 114 F.3d 601, 612-13 (6th Cir. 1997). Because Plaintiff was released from jail, the Court will grant his motion for reconsideration and vacate the previous order granting him leave to proceed *in forma pauperis* under the PLRA. In light of his indigence, the Court will grant Plaintiff's new motion for leave to proceed *in forma pauperis* and allow him to proceed in this action without payment of the filing fee. Therefore:

IT IS ORDERED that Plaintiff's motion for reconsideration (docket #17) is GRANTED.

IT IS FURTHER ORDERED that the order granting Plaintiff leave to proceed *in forma pauperis* under the PLRA (docket #8) is VACATED.

IT IS FURTHER ORDERED that Plaintiff's motion for leave to proceed *in forma pauperis* (docket #12) is GRANTED. Plaintiff may proceed *in forma pauperis* without payment of the filing fee.

IT IS FURTHER ORDERED that Plaintiff may commence this action without prepayment of fees or costs or security therefor. Any pleadings herein served by the United States Marshal shall be at the expense of the United States government. All costs shall be reimbursed to the United States should Plaintiff prevail.

IT IS FURTHER ORDERED that Plaintiff shall serve upon Defendant or, if appearance has been entered by an attorney, upon the attorney, a copy of every further pleading or other document submitted for consideration by the Court. The Plaintiff shall include with the original paper to be filed with the Clerk of the Court a certificate stating the date a true and correct copy of any document was mailed to Defendant or the attorney. Any paper received by a District

Judge or Magistrate Judge which has not been filed with the Clerk or which fails to include a certificate of service will be disregarded by the Court.

Dated: May 8, 2008

/s/ Hugh W. Brenneman, Jr.  
HUGH W. BRENNEMAN, JR.  
United States Magistrate Judge